

**New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Pretreatment and Residuals**

**LEGAL AUTHORITY REVIEW CHECKLIST
PURSUANT TO 40 CFR PART 403, NJWPCA, N.J.A.C. 7:14A & 7:14**

Name of POTW: _____

	<u>No Revision</u>	<u>Revision Recommended</u>	<u>Revision Required</u>	<u>Section of Ordinance</u>
A. Minimum Definitions (to establish program scope)				
(1) 40 CFR 403.3 and 403.8(f)(2)(vii):				
* Industrial user (or equivalent)	_____	_____	_____	_____
* Interference	_____	_____	_____	_____
* National pretreatment standard	_____	_____	_____	_____
* New source	_____	_____	_____	_____
* Pass through	_____	_____	_____	_____
* Pretreatment	_____	_____	_____	_____
* Pretreatment requirements	_____	_____	_____	_____
* Significant industrial user	_____	_____	_____	_____
* Significant noncompliance	_____	_____	_____	_____
(2) NJAC 7:14A-1.2				
* Hazardous pollutant	_____	_____	_____	_____
* Permit	_____	_____	_____	_____
* Serious violation	_____	_____	_____	_____
* Significant noncomplier	_____	_____	_____	_____
(3) NJAC 7:14-8.2				
* Bypass	_____	_____	_____	_____
* Upset	_____	_____	_____	_____
B. Prohibited Discharges				
(1) General prohibitions [403.5(a)]				
* Interference	_____	_____	_____	_____
* Pass through	_____	_____	_____	_____
* Affirmative defense to general prohibitions [403.5(a)(2)]	_____	_____	_____	_____
(2) Specific prohibitions [403.5(b)]				
* Fire/explosion hazard [60° C (140° F) flash point]	_____	_____	_____	_____
* pH/corrosion	_____	_____	_____	_____

B. Prohibited Discharges (continued)

- * Solid or viscous/obstruction
- * Flow rate/concentration (BOD, etc.)
- * Heat [exceeds 40° C (104° F) at POTW]
- * Petroleum/non biodegradable cutting/mineral oils
- * Toxic gases/vapors/fumes
- * Trucked/hailed wastes

(3) Local limits development [NJAC 7:14A-19.7]

(4) Incorporation of General Pretreatment Regulations--
"40 CFR 403.1 et seq. is hereby incorporated by
reference, including all supplements and
amendments thereto"

(5) Incorporation of Federal Categorical Standards--
"40 CFR Chapter I, Subchapter N is hereby
incorporated by reference, including all supplements
and amendments thereto"

(6) Prohibition against dilution as treatment [403.6(d)]

C. Control Discharges to POTW System

- (1) Deny/condition new or increased contributions
[403.8(f)(1)(i)]
- (2) Require compliance with standards [403.8(f)(1)(ii)]
- (3) Individual control mechanism (e.g., permit) to ensure
compliance (mandatory for SIUs) [403.8(f)(1)(iii)]
- (4) Submit permit re-application within 180 days of
expiration of existing permit [NJAC 7:14A-4.2(e)3]
- (5) Require development of slug/spill plan
[403.8(f)(2)(v)]

D. Minimum Permit Contents

- * Duration [403.8(f)(1)(iii)(A)]
- * Non-transferability [403.8(f)(1)(iii)(B)]
- * Effluent limits [403.8(f)(1)(iii)(C)]
- * Self-monitoring, sampling, reporting, etc.
[403.8(f)(1)(iii)(D)]
- * Applicable civil and criminal penalties
[403.8(f)(1)(iii)(E)]

D. Minimum Permit Contents (continued)

- * Operate/maintain control systems
[NJSA 58:10A-6.f(6)]
- * Payment of fines, penalties, etc.
[NJSA 58:10A-6.k]
- * Notification of violation/resampling requirement
[403.12(g)]
- * Notification of discharge of hazardous wastes
[403.12(p)]
- * Notification of potential problems (slug loads)
[403.12(f) & NJSA 58:10A-6.f(8)]
- * Notification of changed discharge [403.12(j)
& NJSA 58:10A-6.f(4)]
- * Monthly reporting for CIUs, SIUs [NJSA 58:10A-
6.f(5)]
- * Monthly reporting due to serious/SNC violations
[NJSA 58:10A-6.f(9) & f(10)]

E. Require Development of Compliance Schedules And Reports

- (1) Develop compliance schedule for installation of
technology [403.8(f)(1)(iv)(A)]

(2) Reporting requirements

- * Types of reports
 - Baseline monitoring report [403.12(b)]
 - Compliance schedule progress report [403.12(c)]
 - Report on compliance with categorical deadline
[403.12(d)]
 - Semi-annual monitoring for SIUs and CIUs
[403.12(e) & (h)]
 - Notification of violation/resampling requirement
[403.12(g)]
 - Notification of discharge of hazardous wastes
[403.12(p)]
 - Notification of potential problems (slug loads)
[403.12(f) & NJSA 58:10A-6.f(8)]
 - Notification of changed discharge [403.12(j)
& NJSA 58:10A-6.f(4)]
 - Monthly reporting for CIUs, SIUs [NJSA 58:10A-
6.f(5)]
 - Monthly reporting due to serious/SNC violations
[NJSA 58:10A-6.f(9) & f(10)]
 - Notification of Bypass [NJAC 7:14A-6.10(f)1]
 - Notification of Upset [NJAC 7:14A-6.10(f)2]

E. Require Development of Compliance Schedules And Reports (continued)

* Other requirements

- Data accuracy certification/authorized signatory
[403.6(a)(2)(ii), 403.12(l), & NJSA 58:10A-6.f(5)]
- Record keeping requirement (5 years or longer)
[NJAC 7:14A-6.6(a)]
- Confidentiality [403.8(f)(1)(vii) & NJSA 58:10A-6.o]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

F. Test Procedures [NJAC 7:14A-6.5(a)]

- 40 CFR 136
- N.J. Certified Laboratory

_____	_____	_____	_____
_____	_____	_____	_____

G. Inspection and Monitoring Procedures [403.8(f)(1)(v)]

- (1) Right to enter at reasonable times
- (2) Right to inspect generally for compliance
- (3) Right to take independent samples
- (4) Right to require installation of monitoring
equipment
- (5) Right to inspect and copy records

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

H. Remedies for Noncompliance (Enforcement)

In order to enforce the provisions of 403.8(f)(1)(vi), NJSA 58:10A-1 et seq., NJSA 58:11-49 et seq., and NJAC 7:14A-19.5, the following enforcement tools must be identified within the sewer use ordinance or rules and regulations.

- * Issuance of order [NJAC 7:14A-19.5(a)1]
- * Civil action including injunctive relief
[NJAC 7:14A-19.5(a)2]
- * Criminal prosecution [NJAC 7:14A-19.5(a)3]
- * Civil administrative penalty authority
[NJAC 7:14A-19.5(a)4]
- * Civil penalties [NJAC 7:14A-19.5(a)5]
- * Summons ability [NJAC 7:14A-19.5(a)6]
- * Mandatory Minimum Penalty for SNC
[NJAC 7:14A-19.4(d) and 19.5(a)7]
- * Mandatory Minimum Penalty for Serious Violation
[NJAC 7:14A-19. 4(d) and 19.5(a)8]
- * Penalty in accordance with 7:14-8.16, including
seriousness/conduct defns [NJAC 7:14A-19.5(a)9]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

H. Remedies for Noncompliance (Enforcement) (continued)

- * Penalty for submitting inaccurate or false information [NJAC 7:14A-19.5(a)10]
- * Mandatory Minimum Penalty for failure to properly conduct monitoring, sampling activities, submit SMRs/DMRs or other reports [NJAC 7:14A-19.4(d) and 19.5(a)11]
- * Issuance of ACO [NJSA 58:10A-6.1]
- * Seal or close sewerage connections [NJSA 58:11-56]
- * Immediately halt actual/threatened discharge which [403.8(f)(1)(vi)(B)]:
 - reasonably appears to present imminent endangerment to persons
 - may present endangerment to environment or POTW

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I. Procedural and Substantive Enforcement Requirements [N.J.A.C. 7:14A-19.5(b)]

- * Notice of penalty assessment and notice of opportunity to request administrative hearing [NJAC 7:14A-19.5(b)1]
- * Opportunity to file exceptions, objections, and replies to head of DLA [NJAC 7:14A-19.5(b)2]
- * Issuance of final decision or order [NJAC 7:14A-19.5(b)3]
- * Appeal of penalty, payment of interest, collection of civil administrative penalty [NJAC 7:14A-19.5(b)4]
- * Penalty settlement restrictions [NJAC 7:14A-19.5(b)5]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

J. Disbursement of Penalty Monies

- 10 % of Penalty monies to:
- Wastewater Treatment Operators' Training Account [NJAC 7:14A-19.3(b)4]
 - Municipality [NJAC 7:14A-19.3(c)12]

_____	_____	_____	_____
_____	_____	_____	_____

K. Public Notice Requirements

- (1) Publish list of industrial users in significant Noncompliance [NJAC 7:14A-19.10(b)]
- (2) Public notice ACOs [NJAC 7:14A-19.10(c)]
- (3) Public hearing, if necessary [NJAC 7:14A-19.10(d)]
- (4) Public notice for new, renewed, modified, or revoked permits [NJAC 7:14A-19.10(e) and 19.8(d)2]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

L. Enforcement Response Plan [NJAC 7:14A-19.4]

- * Appendix A plan [NJAC 7:14A-19, App. A]
- * Penalty matrix specified at NJAC 7:14-8.16(f) [NJAC 7:14A-19.4(d)]
- * Seriousness & Conduct criteria [NJAC 7:14A-19.5(a)9]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

M. Affirmative Defenses [NJSA 58:10A-10.2]

Including:

- Bypass
- Upset
- Testing or Laboratory Error

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**N. Permit Actions
[NJSA 58:10A-7]**

Including:

- Fixed terms and reapplication [10A-7.a.]
- Modify, suspend, revoke [10A-7.b]
- Notification [10A-7.c.]
- Determination [10A-7.d.]
- Third party [10A-7.e.]
- Contest by permittee [10A-7.f.]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**O. Permit Appeals
[NJAC 7:14A-17]**

Including:

- Adjudicatory hearing [7:14A-17.2]
- Party to action [7:14A-17.3]
- Grant/Deny hearing [7:14A-17.4]
- Hearing notice [7:14A-17.5]
- Stay of Conditions [7:14A-17.6]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

P. Attorney's Statement [NJAC 7:14A-19.9(c)2]

(required with any substantial modifications)

_____	_____	_____	_____
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Document(s) submitted for review:

COMMENTS:

Reviewed by:_____

Date:_____

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